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5 **UNITED STATES DISTRICT COURT**  
6 **DISTRICT OF NEVADA**

7 BRYAN BONHAM,

8 Plaintiff,

9 v.

10 STATE OF NEVADA, et al.,

11 Defendants.

Case No.: 3:18-cv-00242-MMD-WGC

**ORDER**

Re: ECF No. 48

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13 Before the court is Plaintiff's "Ex Parte Motion for Appointment of Counsel and Request  
14 for an Evidentiary Hearing" (ECF No. 48). Plaintiff bases his motion on the fact that (1) he is  
15 unable to afford counsel, (2) the substantive issues and procedural matters in this case are too  
16 complex for Plaintiff's comprehension and abilities, and (3) that "counsel is necessary to proceed  
17 with discovery." (*Id.* at 2.)

18 While any *pro se* inmate such as Mr. Bonham would likely benefit from services of  
19 counsel, that is not the standard this court must employ in determining whether counsel should be  
20 appointed. *Wood v. Housewright*, 900 F.2d 1332, 1335-1336 (9th Cir. 1990).

21 A litigant in a civil rights action does not have a Sixth Amendment right to appointed  
22 counsel. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The United States Supreme  
23 Court has generally stated that although Congress provided relief for violation of one's civil rights

1 under 42 U.S.C. § 1983, the right to access to the courts is only a right to bring complaints to  
2 federal court and not a right to discover such claims or even to litigate them effectively once filed  
3 with a court. *Lewis v. Casey*, 518 U.S. 343, 354-355 (1996).

4 In very limited circumstances, federal courts are empowered to request an attorney to  
5 represent an indigent civil litigant. The circumstances in which a court will grant such a request,  
6 however, are exceedingly rare, and the court will grant the request under only extraordinary  
7 circumstances. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986);  
8 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

9 A finding of such exceptional or extraordinary circumstances requires that the court  
10 evaluate both the likelihood of Plaintiff's success on the merits and the *pro se* litigant's ability to  
11 articulate his claims in light of the complexity of the legal issues involved. Neither factor is  
12 controlling; both must be viewed together in making the finding. *Terrell v. Brewer*, 935 F.2d 1015,  
13 1017 (9th Cir. 1991), *citing Wilborn, supra*, 789 F.2d at 1331. Thus far, Plaintiff has shown an  
14 ability to articulate his claims. (ECF Nos. 1, 17, 22, 23, 25, 27, 28, 31, 43, 46.)

15 In the matter of a case's complexity, the Ninth Circuit in *Wilborn* noted that:

16 If all that was required to establish successfully the  
17 complexity of the relevant issues was a demonstration of  
18 the need for development of further facts, practically all  
19 cases would involve complex legal issues. Thus,  
20 although *Wilborn* may have found it difficult to  
21 articulate his claims *pro se*, he has neither demonstrated  
22 a likelihood of success on the merits nor shown that the  
23 complexity of the issues involved was sufficient to  
require designation of counsel.

21 The Ninth Circuit therefore affirmed the District Court's exercise of discretion in denying  
22 the request for appointment of counsel because the Plaintiff failed to establish the case was  
23 complex as to facts or law. 789 F.2d at 1331.

1 The substantive claims involved in this action are not unduly complex. Plaintiff's  
2 complaint was allowed to proceed on the Fourteenth Amendment due process claim against  
3 Defendants Gouvea, Carpenter, Baker, and Wickham. (ECF No. 3 at 6.)

4 Similarly, with respect to the *Terrell* factors, Plaintiff has failed to convince the court of  
5 the likelihood of success on the merits of his claims. In fact, Plaintiff has not discussed this issue  
6 whatsoever.

7 The court does not have the power "to make coercive appointments of counsel."  
8 *Mallard v. U. S. Dist. Ct.*, 490 US 296, 310 (1989). Thus, the court can appoint counsel only under  
9 exceptional circumstances. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) [cert den 130  
10 S.Ct. 1282 (2010)]. Plaintiff has not shown that the exceptional circumstances necessary for  
11 appointment of counsel are present in this case.

12 In the exercise of the court's discretion, it **DENIES** Plaintiff's "Ex Parte Motion for  
13 Appointment of Counsel and Request for an Evidentiary Hearing" (ECF No. 48).

14 **IT IS SO ORDERED.**

15 Dated: June 30, 2020.

16   
17 WILLIAM G. COBB  
18 UNITED STATES MAGISTRATE JUDGE  
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